

REMARKS

FORMAL MATTERS

Claims 57-80 are pending in the application, and stand variously rejected.

Claims 57-61, 66, 72, 74-76, 78, and 80 are currently under examination.

Claims 62-65, 67-71, 73, 77, and 79 are currently withdrawn from consideration.

Applicants note that the first page of the Office Action does not include these claims among the pending claims. Applicants' records indicate that these claims are pending, but withdrawn. If Applicants' records are in error, the Examiner is requested to contact the undersigned at his earliest convenience.

Claims 61, 72, 76 and 80 are rejected.

Claims 57-60, 66, 74, 75 and 78 are objected to. No claim was allowed.

Claims 61 and 68-73 are amended. Support for these amendments is found in the specification and in, for example, claim 57 as previously presented.

No new matter is introduced.

Reconsideration and allowance of the application is respectfully requested.

INTERVIEW SUMMARY

Applicants are grateful for the interview conducted on November 13, 2003 with Examiner Murphy, Examiner Eyler, the licensee's representative Michael Schiff, and the undersigned. The outstanding rejections of the claims were discussed. Agreement was reached as to amendments to remove the rejection under §112, ¶2, which amendments are presented here. In addition, the Examiners agreed that the Restriction Requirement would be removed and the subject matter relating to the polynucleotides of SEQ ID NOS:1, 5, 6, 8, 9 and 10 would be rejoined.

WITHDRAWAL OF REJECTIONS

Applicants acknowledge with gratitude the withdrawal of the prior rejections of the claims under §101, §112, ¶1, and §112, ¶2.

RESTRICTION REQUIREMENT AND OBJECTIONS TO CLAIMS

Claims 57-61, 66, 72, 74-76, 78, and 80 were objected to on the grounds that these claims contained subject matter directed to non-elected groups.

As noted above, the Examiners agreed during the interview of November 13, 2003 that claims directed to non-elected sequences would be rejoined with the currently pending claims in view of the fact that protein encoded in the polynucleotide sequences recited in the claims have been deemed patentable in an earlier-filed application (USSN 09/081,253) to which this application claims priority. The earlier application issued as U.S. Pat. No. 6,593,456 on July 15 of this year.

Since the protein encoded in the sequences recited in the instant claims have already been searched and deemed patentable, there is no undue burden is imposed upon the Office in examination of methods directed to making proteins by expressing polynucleotides that hybridize to the same sequences. Under these circumstances, the invention should not be divided into separate applications (MPEP §803), whether or not the sequences are patentably distinct.

Applicants therefore respectfully request rejoinder of claims 62-65, 67-71, 73, 77, and 79 into the group under examination, and withdrawal of the objections to the claims.

REJECTIONS UNDER §112, ¶2

Claims 61, 72, 76 and 80 were rejected for recitation of the term “stringent conditions”. The amendments to the claims incorporate the hybridization conditions in claim 57, and render this rejection moot. Withdrawal of this rejection is respectfully requested.

CONCLUSION

Applicant respectfully requests that all outstanding rejections be reconsidered and withdrawn. The application is believed to be in condition for allowance, and a prompt Notice of Allowance is requested.

In the event that the Examiner determines that there are other matters to be addressed, applicants hereby requests an interview by telephone. The Examiner is further invited to telephone the undersigned should he believe that such would expedite prosecution.

In the event that the transmittal letter is separated from this document and the Patent Office determines that extensions or other relief is required and/or fees are due applicants, the Applicant petitions for any required relief, including extensions of time, and authorize the Commissioner to charge our Deposit Account No. 50-0815, Order Number IRVN-007CIP2, for any fees due in connection with the filing of this document. The Patent Office is not authorized to charge issue fees to our Deposit Account.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: _____

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By: _____

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